**HIGH COURT OF UTTARANCHAL AT NAINITAL**
**Criminal Misc. Application No. 928 of 2001**
(Old No. 12758 of 1993)

Lt. Col. Prem Singh Bohra
S/o late Hari Singh Bohra
R/o 212 Rajender Nagar
P.S. Garhi Cantt.
Dehradun .....Applicant

Versus

1. State of Uttaranchal
2. Ram Singh Bist
   S/o late Khem Singh Bist
   R/o 50/103 Hathi Barkala
   New Cantt. Road
   P.S. Kotwali
   District Dehradun

.....Respondents

**Date:- 19th July, 2005**

**Hon'ble J.C.S. Rawat, J.**

The petition under section 482 Cr.P.C. was filed for quashing the criminal compliant and its entire proceedings in case No. 472-A/1987 Ram Singh Vs. E.S. Bohra pending before the Addl. Munsif Magistrate, Hardwani.

2. Heard Sri Lokendra Dobhal learned counsel for the applicant, Sri L.K. Tiwari learned counsel for the respondent No.2 and Sri Nandan Arya learned A.G.A.

3. The factual position in a nutshell is that the respondent No.2-Ram Singh Bist lodged a complaint before the Chief Judicial Magistrate, Dehradun under sections 147, 452, 395, 379, 380, 426, 427, 34/120-B I.P.C. against the two known and 15-16 unknown persons. The same was registered as Complaint No. 472/87. Out of two named accused persons, the first one was Deependra Singh @ Deepee Singh S/o Kundan Singh R/o 12 Kalidas Road P.S. Kotwali, District

Dehradun, while the second was E.S. Bohra S/o unknown R/o through Deependra Singh Pawar, 12 Kalidas Road, Dehradun. In order to prove its case, the respondent No.2 got himself examined under section 200 Cr. P.C and also adduced the evidence of Hari Om Singh Bist (PW-1) & Hari Krishan Sharan (PW-2) under section 202 Cr.P.C. Thereafter, the learned Magistrate vide its order dated 24.8.1987 took cognizance against the two named persons under sections 232, 452, 506, 427 I.P.C. On which, the first accused Deepandra Singh Pawar appeared before the learned Magistrate, but the wherebouts of the second accused-E. S. Bohra was not known. A number of times, the summons were issued against E.S. Bohra, but the service could not be affected upon him nor he could appear in Court due to incomplete address shown in the complaint. On 14.11.1991 the respondent No.2 deliberately with some oblique motive gave process fee in the name of the applicant-Prem Singh Bohra instead of E.S. Bohra, but the learned Magistrate refused to accept this process fee and separated the case of E.S. Bohra from the main case vide order dated 14.11.1991. After separating the case of E.S. Bohra, the case was remained only against the Deependra Singh. Again, the process was issued by the learned Magistrate against the present applicant instead of E.S. Bohra. When the respondent No.2 did not adduce any evidence the learned Magistrate dismissed the complaint and discharged the accused Deependra Singh under section 245(2) Cr.P.C. vide order dated 26.3.1992. It has further alleged that since the intention of the complainant was to prolong and delay the case and to harass the applicant, hence the complainant with some oblique motives changed the address of the accused no.2 E.S. Bohra and gave the

address as 212 Kaulagarh Road, Dehradun, which is address of the present applicant. The respondent No.2 with some ill-will substituted the name of applicant instead of E.S. Bohra by way of filing the process. Thereafter, the warrant was issued in the name of applicant. When the applicant-Prem Singh Bohra came to know that some foul play has been played and the process was wrongly issued against him, he requested to recall the order. After hearing the parties, on 23.7.1992 the learned Magistrate has held that since the applicant-Prem Singh Bohra is neither named in the complaint nor summoning order was passed against him, hence any warrant or summons which have been issued in the name of Prem Singh Bohra was recalled and the police was directed to send back all the summons and warrants, which was issued against the present applicant. Thereafter, the applicant has filed the present petition to safeguard his interest.

4. The learned counsel for the applicant has contended that the case is still pending and the police is chasing him all the times. The police personnel generally visit his house in order to harass him each and every time. Therefore, the applicant has come up before this Court for quashing the complaint and proceedings against him.

5. Perusal of the record reveals that the petition is pre-mature. The applicant is not named in the complaint and no cognizance order has been passed against the applicant. When the learned Magistrate came to know that summons were wrongly issued against the present applicant, he immediately recalled the cognizance orders, which have been issued in the

name of Prem Singh Bohra. The applicant has filed the petition on the ground that if the proceeding is continued he may again be summoned. Thus, the petition is not maintainable only on the pretext of apprehension.

6. In view of the foregoing discussion, the petition devoids of merit and is dismissed as such.

**(J.C.S. Rawat, J.)**

Dated 19.7.2005
LSR